ADVISORY COMMITTEE: APARTMENT RENT ORDINANCE

REGULAR MEETING ACTION MINUTES

OCTOBER 7, 2015

MEMBERS PRESENT: Matthew Carney

Gustavo Gonzalez Joshua Howard John Hyjer Aimee Inglis Roberta Moore Melissa Morris Elizabeth Neely Michael Pierce Eloise Rosenblatt

Tom Scott

MEMBERS ABSENT: Elisha St. Laurent

STAFF: Jacky Morales-Ferrand Housing Department

Wayne Chen Housing Department
Paul Lippert Housing Department
Ramo Pinjic Housing Department
Ann Grabowski Housing Department
Shawn Spano Contracted Facilitator

- (a) Call to Order/Orders of the Day—Shawn Spano opened the meeting at 6:11 pm.
- **(b) Introductions** Mr. Spano introduced himself and Committee Members introduced themselves, including Mr. Matthew Carney, the final tenant representative.
- (c) Unfinished business from September 30th meeting, if any (Housing Staff, Facilitator)

Mr. Spano reviewed the ground rules provided at the 9/30 meeting.

Ms. Neely asked how the Committee's question will be answered. Web or in person?

Mr. Gonzalez stated that he was pleasantly surprised that only .4% of the total properties were engaged in the petition process. Average price per 1-unit bedroom as stated in the 9/30 PowerPoint seems unrealistic and outside of his experience as a real estate broker. Would like to see the actual data as to where that information came from.

Mr. Chen responded that we have procured a new data source through CoStar. Also investigating rate of change in addition to the delta between ARO and non-ARO rents.

Ms. Morales-Ferrand also responded that it's very difficult to monitor ARO rents because we've never recorded rents

Ms. Moore asked when the answers and the data that was requested at the 9/30 meeting would be provided.

Mr. Chen responded that the consultant team will be retrieving as much historical data and information from as possible.

Mr. Pierce asked if the Committee be able to see the reporting data before the report goes to the City Council. And, should we wait for the consultant's report?

Ms. Inglis stated that data is important and that additional data is available through the Census. Committee should patiently trust the process. The City Council asked the group to address the problem so the Committee should take the issue seriously rather than question whether or not there is a problem to address.

(d) Presentation and discussion on the inclusion of a requirement for income qualification of tenants in the ARO (Housing Staff, Facilitator)

Ms. Morales-Ferrand presented information on the Council referral to explore creating an income restriction for ARO units.

Public Comment

Owner: If this unit is still mine, why would you control tenants?

Tenant: Of the two proposals, bedroom median income cap will allow more people into units. Seems like a lot of work for both parties. Harms tenants who are trying to save money to get ahead.

Owner: Small landlord, runs own property. Costs a lot of money to get a new tenant. If tenant exceeds maximum income who is going to evict? Who is going to get taken to court? It is expensive to run apartments. Income is based on how long/hard people work. Shouldn't discourage hard working people.

Owner: Income qualification sounds like communism. Goal seems to be to turn ARO buildings into public housing and owners don't have the ability to opt-out. Totally unfair.

Owner: Rent control ordinance is unfair. Units are smaller and older apartments which are purchased by hard working people who are not rich. He and his wife work really hard. This ordinance punishes small owners. Running public housing on backs of small business owners

Owners: Small rental property owner in San Jose. Concern about income qualification of tenants. Put tenants in fear of eviction if they work more. Hard for them to stay local and work harder.

Owner: Advocates have heartfelt stories about the hardships that exist. Owns duplex. Against income qualifications because it won't fix the problem and it will be a lot of work for owners. Income assumptions set at 30% but nationally it's 50%.

Tenant: Questions that are unresolved? Consequences of misrepresenting income? Consequences of renting to a tenant who wasn't qualified? Delays in retrieving data? What if income cannot be proven? May be consensus that this process doesn't serve the interests of the community.

Tenant: Senior affordable housing in Willow Glen. People are living on the edge from social security, disability. Asking landlords to please understand the impact of receiving 8% rent increases. Thinks there should be a test for landlords who want to increase rents.

Owner: Concerns with the idea and implementation of income qualification. What happens when household size changes? Tenants should have privacy of their information and how will owners verify information? Walk away from this idea.

Owner: Against income qualification. Issues with implementation. Firmly against the idea that government should increase staffing based on its own program

Owner: Surprised that someone would propose this. Finding tenants is hard enough as it is. Likely discrimination lawsuits. No need to add additional burden to the landlord.

Care about privacy information. Income qualification becomes a kind of discrimination. Very difficult for landlord to verify income, especially when incomes vary.

Owner: The City is discriminating against people with money. Should have been vetted by legal department before discussed. Four new staff means more pensions.

Owners: landlords have a right to manage their own personal property and this system will force landlords to take less qualified or lower quality tenants

Tenant: Is not bothered by the "attack" on the rich idea. What's unfair is expecting 8% returns every year.

Owner: Tenants rights group has a point. It's very difficult to make money in San Jose. None of the AROs are means tested. What is being presented is solving a social problem on the backs of 400-500 people.

Committee Discussion

Mr. Pierce: landlords are already providing a public subsidy – it's just not funded by a public entity. If looking at marginal price – the lower you allow the price, the longer the tenants stay which reduces the units available. If someone's income jumps, what if they're no longer protected under rent control. Then no need for City staff. Over time it would allow more units to rise faster.

Ms. Moore: The income qualification was intended to prevent abuse and keep units available for those who need it.

Ms. Rosenblatt: Sympathetic to concerns of owners. Has experience with income qualification as a lawyer. People lie in their court documents under penalty of perjury and she's sure they'll lie or underreport income to owners.

Ms. Morris: Rent control is good to prevent displacement of long-term and in-place tenants. Because tenants have stability in their housing they may be able to build wealth for education, savings, etc. Looking at income qualification, it doesn't reach the goal or purpose of the ARO.

Mr. Scott: City has 17,000 affordable units. BRM has many formulas. We aren't serving enough of the very low income people. Most affordable units go to people with higher income. Wonders how many people means test out of affordable housing. Lowering the allowable rent increase isn't going to solve the main problem of someone not being able to afford rent.

Ms. Inglis: Means testing associated with ARO programs is a solution looking for a problem. Median household income for low income tenants – won't statistically have a lot of tenants. Non-issue. Reiterate point previously: ARO is best at anti-displacement for in-place tenants. Can't have vacancy control so we can't really look at rent control as an affordable housing policy.

Mr. Hyjer: Income restriction is for existing tenants because when the unit becomes vacant, the unit goes to market. Mr. Pierce's suggestion allows landlords of units with tenants whose income grows, to recoup more in rent because the tenant no longer needs the assistance that they once did. Means testing helps in that way.

Ms. Rosenblatt: Lives in a 40-unit complex. Some units set aside for seniors on fixed incomes. When building was purchased by new owner, those units were eliminated. Wonders if that requirement exists to set 10% of units aside.

Mr. Hyjer: Depends on the type of program that the building owner was participating in. Possibly a bond restriction or a program that was part of the deed.

Mr. Gonzalez: His tenants are low income families. The real answer is added supply of below market rate units. We should incentivize Mr. Hyjer's company to build more below market rate units.

Mr. Howard: Rent control is an affordable housing program but the subsidy comes from a private owner, not the government and the subsidy is tax free to the recipient. People who need the help are those with less than \$100k. We need to have a better understanding of who lives in these units to ensure that people are receiving the help they need. Maybe means testing is done with an incentive to landlords to rent to tenants who are earning a certain percentage of median income.

Ms. Neely: How are incomes tied to rent increases under income restriction? Can income fluctuate in an income restricted program?

Ms. Inglis: Helpful if we could scale back rhetoric. Rental subsidy programs exist. Rent control is not a subsidy program.

Mr. Pierce: Important to note that income qualification could remove the incentive for a higher income person who is receiving a subsidy for their rent that they don't need. If the rent restriction is removed, the tenants rent can grow and they can move out and have the unit available to the lower income tenant.

Ms. Rosenblatt: Doesn't have a problem with a means test, but wonders if there is a means test and monitoring that owners would even like.

Temperature Check: Should the City continue to explore developing an income qualification model for the ARO?

Yes: Howard, Pierce, Scott, Moore, Gonzales

Unsure: Carney, Neely, Rosenblatt No: Morris, Hyjer, Inglis

Mr. Howard: Recommendation: **Should the City explore an incentive based income qualification program?**

Yes: Gonzalez, Rosenblatt, Moore, Scott, Pierce, Howard, Carney, Hyjer

Unsure: Morris No: Inglis

(e) Presentation and discussion on the inclusion of duplexes in the ARO (Housing Staff, Facilitator)

Mr. Chen presented information on the potential inclusions of duplexes under the ARO.

Public Comment

Owner: Duplexes today are \$1M, which requires about \$4,000 a month or \$2,000 a unit. These units are older and won't last long. \$1750/month for his units.

Owner: Reality is that adding restrictions to the easiest type of property to occupy. These properties are already losing money in these markets, which means that owners will re-occupy these buildings. Big displacement risk.

Owner: Problem with voting process on previous item. Roll call voting influences people voting later down the line. Photos were taken of vote. Thinks photos will be sent out which could cause people to be attacked.

Tenant: City Council posts their votes publically so no issue with voting. Should include duplexes in the ARO. Previous conversation: if all of a sudden renters are forced into higher rent units they'll lose the savings they had created.

Owners: Small landlords own duplexes. They are working class and they will have to work very hard. Have to work hard to attract tenants. Squeezes owners. Small owners are struggling just like tenant.

Owner: Two duplex owner, worked very hard to own duplex without subsidy from government. Doesn't increase rent very much ~\$50/year? Encourages people to keep units out of the market.

Tenant: Why were duplexes originally excluded from the original ARO? The impact of a rent increase for

Owner: Previous owner of duplex owned debt-free. She paid \$850k and property tax is very high. Those costs are before improvements. When they bought the unit the property was not under rent control.

Owner: Owns a duplex – opposes rent control – why can duplexes be included now if it was originally excluded?

Owner: Sold a duplex for 500k that was generating \$43k a year in operating income. After taxes and improvements, income goes away.

Tenant: Duplexes should be included. Not enough affordable housing in San Jose. How could people ever become to owners without saving money? 2/3 are landlord occupied – need an answer.

Owner: Lives in San Jose for 20 years and owns a duplex. Housing shortage is about supply. Rent control won't solve the supply problem. Rent control restricts housing supply. Not a healthy system, like San Francisco.

Owner: Property manager for duplexes. Very difficult to make a profit.

Owner: Owns duplex. Shortage of housing drives rents up. Lots of people who need help. Every tax payer should contribute, not just a small percentage of population. Willing to sell unit to City for them to rent to tenants.

Committee Discussion

Mr. Howard: Asked if there been a legal review as to whether this was legal under Costa-Hawkins.

Ms. Inglis: Questions on Costa-Hawkins. SF could only apply it up to 1979.

Mr. Hyjer: When scrubbing the data, pull out the number of owner occupied units.

Ms. Moore: Including duet homes and duplexes would discourage single family homeowners from building units over their garages or from adding density to property. Creating a rental regulation for those units would discourage those additions which is a city goal.

Mr. Scott: Against adding small properties under rent control. Recent immigrants often look at these properties to move their families in.

Mr. Pierce: Liberalizing planning process to include granny units is a way to expand the housing stock. Should not hurt that building type by regulating duplexes.

Mr. Howard: Concerns about data available. The Committee has very meaty issues to take up. Not sure this is an issue that merits addressing. Recommended doing a temp. Check now about whether to take the issue up at all.

Mr. Morris: In favor of including duplexes. Issue is significant and shouldn't be treated lightly.

Agenda item will move forward under unfinished business.

(f) Open Forum

Owner: data is critical to make good decisions. If you look at 5 years ago, so many people lost their jobs and homes because they could not afford to live here. Comparing best and worst time.

Owner: In America we insist that we have equal opportunity for all. Rent control decreases the opportunities for those who are looking for housing which is not fair. Those who are supporting rent control.

Owner: More and more people cannot afford a place to live. Problem is supply and demand. Communism failed for a reason. SF has high rent for a reason.

Owner: When you buy a property you get a silent partner in the United States Government. Bought small building built early in the 1900s through a loan. Properties are becoming gentrified. Shouldn't have invested in them.

Tenant: Regulations don't cover new construction so granny units don't count. Nothing stops landlords from passing through reasonable costs.

Tenant: More balanced discussion. Rent control has been working for a long time. City Council stays working for a long time until people are ready to vote.

Tenant: If the tenant's income is relevant the landlord's income should be relevant as well.

Investor/Realtor: Housing shortage is an issue. Rent control is a disruptive policy – lose-lose for renters and owners. Less incentives for investors to engage. Less incentive for landlords. Lower quality housing for City.

Tenant: Rents a condo with a decent landlord. Neighbors are having to leave due to rent increases of \$300-\$350 a month. Housing shortage is real. One moved away and another has moved in with family. Serious problem.

Tenant: People are suffering under high cost of housing. This body isn't making decision about building more housing, it's supposed to discuss rent control.

Owner: West San Jose: Free and fair market is the best solution for the City. Don't make it more difficult to find housing.

Owner: Increase supply through zoning regulations by making subdivision easier. Build more public transportation so that people can more

Owner: Rent control doesn't limit supply. Adding duplexes into supply is a good thing. We don't need more buildings without restrictions.

Owner: Keep it simple. Too complicated with too many creative issues. Simplify the program and the process. Open to rent control and willing to work through it.

Public member: remind everyone that before just cause evictions is in place there will be many evictions. Landlords and tenants are not enemy so all should work together.

Tenant: Advocate for tenants and the homeless. Strongly believe that means testing needs to stop unless landlords are being means tested at the poverty line for rent increases. Just cause is important and we need it.

Owner: Questions aren't answered. Concerning to know that City can't put its finger on data on duplexes. Owners are willing to keep rents low to keep good tenants.

(g) AdjournFacilitator Shawn Spano adjourned the meeting at 8:55pm.



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Discusión Pública: Actualización de la ARO Apartamento Ordenanza de Arrendamieto

Pat Farrow

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